IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.874 OF 2005.

Prakash Vanzara. ... Applicant.
Versus.
The State of Maharashtra & another ... Respondents.

Shri S.V.Marwadi with Shri Prakash Naik for the Applicant.

Shri U.V.Nikam, A.P.P. for the Respondent-State.

CORAM : ABHAY S.OKA, J.

DATED : 17th August, 2006.

P.C.:

1. The prayer in this application under section 482 of the Code of Criminal Procedure, 1973 is for quashing the order passed by the learned Judicial Magistrate First Class issuing process on a private complaint filed by the 2nd Respondent.

2. In view of the decision of this Court in the case of V.K.Jain and others v/s. Pratap V. Padode and another, reported in 2005 (3) Mah.L.J. page 778, this application under section 482 of the Code of Criminal Procedure, 1973 cannot be entertained. The learned single Judge of this Court in the aforesaid decision held that the power of the High Court under section 482 of the said Code should not be resorted to if there is a specific provision for redressal of the grievance of the aggrieved party. This Court observed that against an

order issuing process, efficacious remedy of preferring Revision Application before the Sessions Court is available and therefore, in such a case Application under section 482 of the said Code should not be entertained.

3. In view of the said decision of the learned Single Judge of this Court, I am not inclined to entertain this Criminal Application.

4. Shri Marwadi, the learned Counsel appearing for the Applicant submitted that necessary guidelines should be laid down for the benefit of the Sessions Court. In my view such an exercise is not required to be done as the position of law as regards the principles governing the issuance of process on a private complaint are very well settled. Shri Marwadi submitted that in case the Applicant prefers a Revision Application before the Sessions Court, limitation will come in the way of the Applicant.

5. It is obvious that if the Application for condonation of delay is made by the Applicant, the concerned Sessions Court will consider the fact that the present application was filed in this Court on 8th February 2005 and this Court issued notice to the Respondent No.2 and that the application remained pending till today.

6. In view of what is stated above, the Application is rejected with liberty to the Applicant to file a Revision Application against the order impugned in this Application. It is obvious that it will be open for the Applicant to raise all permissible contentions in the Revision Application.

Judge.